

AMENDED IN ASSEMBLY MARCH 30, 2005

CALIFORNIA LEGISLATURE—2005–06 REGULAR SESSION

ASSEMBLY BILL

No. 528

Introduced by Assembly Member ~~Chan~~ *Frommer*

February 16, 2005

~~An act to amend Section 1789.35 of the Civil Code, relating to check cashers. An act to add Section 3497 to the Civil Code, relating to public nuisances.~~

LEGISLATIVE COUNSEL'S DIGEST

AB 528, as amended, ~~Chan~~ *Frommer*. ~~Check cashers~~ *Public nuisances: remedies.*

Existing law provides that the remedies against a public nuisance are indictment or information, a civil action, or abatement.

This bill would provide that these remedies are cumulative and not exclusive.

~~Existing law regulates the fees that may be imposed by check cashers for cashing payroll checks and government checks and for setting up initial accounts and issuing optional identification cards for providing check cashing services. Any person who violates these provisions is liable for a civil penalty not to exceed \$2,000 for each violation.~~

~~This bill would increase the maximum civil penalty for each violation of these provisions to \$2,500.~~

Vote: majority. Appropriation: no. Fiscal committee: ~~yes~~ *no*. State-mandated local program: no.

The people of the State of California do enact as follows:

1 ~~SECTION 1. Section 1789.35 of the Civil Code is amended~~
2 ~~to read:~~

3 ~~SECTION 1. Section 3497 is added to the Civil Code, to read:~~

4 ~~3497. The remedies provided by this title are cumulative and~~
5 ~~not exclusive.~~

6 ~~1789.35. (a) A check casher shall not charge a fee for~~
7 ~~cashing a payroll check or government check in excess of 3~~
8 ~~percent if identification is provided by the customer, or 3.5~~
9 ~~percent without the provision of identification, of the face~~
10 ~~amount of the check, or three dollars (\$3), whichever is greater.~~
11 ~~Identification, for purposes of this section, is limited to a~~
12 ~~California driver's license, a California identification card, or a~~
13 ~~valid United States military identification card.~~

14 ~~(b) A check casher may charge a fee of no more than ten~~
15 ~~dollars (\$10) to set up an initial account and issue an optional~~
16 ~~identification card for providing check cashing services. A~~
17 ~~replacement optional identification card may be issued at a cost~~
18 ~~not to exceed five dollars (\$5).~~

19 ~~(c) A check casher shall provide a receipt to the customer for~~
20 ~~each transaction.~~

21 ~~(d) A check casher may charge a fee for cashing a personal~~
22 ~~check, as posted pursuant to Section 1789.30, for immediate~~
23 ~~deposit in an amount not to exceed 12 percent of the face value~~
24 ~~of the check.~~

25 ~~(e) Any person who violates any provision of this section shall~~
26 ~~be liable for a civil penalty not to exceed two thousand five~~
27 ~~hundred dollars (\$2,500) for each violation, which shall be~~
28 ~~assessed and recovered in a civil action brought in the name of~~
29 ~~the people of the State of California by the Attorney General in~~
30 ~~any court of competent jurisdiction. Any action brought pursuant~~
31 ~~to this subdivision shall be commenced within four years of the~~
32 ~~date on which the act or transaction upon which the action is~~
33 ~~based occurred.~~

34 ~~(f) A willful violation of this section is a misdemeanor.~~

35 ~~(g) Any person who is injured by any violation of this section~~
36 ~~may bring an action for the recovery of damages, an equity~~
37 ~~proceeding to restrain and enjoin those violations, or both. The~~
38 ~~amount awarded may be up to three times the damages actually~~

1 incurred, but in no event less than the amount paid by the
2 aggrieved consumer to a person subject to this section. If the
3 plaintiff prevails, the plaintiff shall be awarded reasonable
4 attorney's fees and costs. If a court determines by clear and
5 convincing evidence that a breach or violation was willful, the
6 court, in its discretion, may award punitive damages in addition
7 to the amounts set forth above.
8 (h) This section shall become operative December 31, 2004.

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